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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-398**

12 MIKE RAY BARKER
952 E. Tulare Avenue
13 Tulare, CA 93274
Registered Nurse License No. 551286
14 Public Health Nurse Certificate No. 60689

A C C U S A T I O N

15
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, MEd., RN, (Complainant), brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs,

22 2. On or about January 28, 1999, the Board of Registered Nursing issued Registered
23 Nurse License Number 551286 to Mike Ray Barker (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on April 30, 2012, unless renewed. On or about June 22, 1999, the Board of Registered
26 Nursing issued Public Health Nurse Certification Number 60689 to Respondent. The Public
27 Health Nurse Certificate was in full force and effect all times relevant to the charges brought
28 herein and will expire on April 30, 2012, unless renewed.

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1 7. Section 490 of the Code states, in pertinent part, that "[a] board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime, if the crime is
3 substantially related to the qualifications, functions, or duties of the business or profession for
4 which the license was issued. A conviction within the meaning of this section means a plea or
5 verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board
6 is permitted to take following the establishment of a conviction may be taken when the time for
7 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
8 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
9 order under the provisions of Section 1203.4 of the Penal Code."

10 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request
11 the administrative law judge to direct a licensee found to have committed a violation or
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
13 and enforcement of the case.

14 FIRST CAUSE FOR DISCIPLINARY ACTION

15 (Substantially Related Conviction)

16 9. Respondent has subjected his registered nurse license and public health nurse
17 certificate to disciplinary action under sections 2761(f) and 490 of the Code in that he was
18 convicted of a crime substantially related to the qualifications, functions or duties of a registered
19 nurse in that on or about March 12, 2009, in the Superior Court of California, County of
20 Monterey, Case Number SS080206A, entitled *The People of the State of California vs. Mike Ray*
21 *Barker*, Respondent was convicted by the court on his plea of nolo contendere of violating
22 Section 12025(b)(1) of the Penal Code (carrying concealed weapon capable of being concealed
23 on person with prior felony conviction), a misdemeanor. The imposition of sentencing was
24 suspended, and Respondent was placed on conditional probation upon terms, which included, but
25 were not limited to, the following: obeying all laws; not having any firearms of any description in
26 his possession for a period of ten years; paying fine of \$1,000.00 to the Monterey County
27 Revenue Division, or in lieu of said fine, serving 10 days, at the rate of \$100.00 per day; serving
28 90 days in jail, with credit for time of 60 actual days; and the

1 case was to be served concurrently with the fine. The factual circumstances surrounding the
2 conviction are as follows:

3 a. On or about September 22, 2008, in Soledad, California, Officer T. Ruiz from the
4 Soledad Police Department was dispatched, along with other officers, to 20 John V. Mills
5 Avenue regarding reports of a man, who was later identified as Respondent, possibly carrying a
6 firearm. Upon his arrival there, Officer Ruiz contacted California Department of Corrections
7 (CDC) Lieutenant Pat Gifford, who stated that correctional officers were currently interviewing
8 Respondent regarding his possible possession of a firearm and his attempt to enter Salinas Valley
9 State Prison. Lt. Gifford told Officer Ruiz that about 20 minutes prior to Ruiz's arrival, Lt.
10 Gifford was advised by CDC Lieutenant Salazar that Respondent had approached Lt. Salazar in
11 the pedestrian port at Salinas Valley State Prison and requested to enter the facility to contact a
12 subject identified only as "inmate Clark." Lt. Salazar suspected that Respondent was armed
13 because Respondent had a bulge in his waistband consistent with a firearm. Lt. Salazar
14 attempted to stop Respondent at the pedestrian port but Respondent turned away and entered his
15 vehicle, a green 2006 Buick Sable, and left the area. Thereafter, Lt. Salazar advised Lt. Gifford
16 about the incident, and told him that Respondent had called CDC Officer Barrozo about his
17 (Respondent's) having "problems" with inmate Clark.

18 Lt. Gifford located the vehicle which Respondent was driving and began to follow it. He
19 also attempted to conduct a traffic stop, but Respondent failed to yield. The vehicle
20 subsequently yielded in the driveway of 20 John V. Mills Avenue. Respondent exited the vehicle
21 and immediately ran inside the residence. A short time later, Respondent exited the residence
22 and approached the CDC Officers waiting outside. Lt. Gifford stated that he "advised
23 Respondent of the situation" and Respondent became very uncooperative. Lt. Gifford stated that
24 Respondent told him that he had an "issue" with inmate Clark and "wanted to take care of it on
25 his own." Lt. Gifford asked Respondent to elaborate as to what he meant by "taking care of it on
26 his own," but Respondent would not respond to the question. Lt. Gifford then asked Respondent
27 for consent to search the residence. Respondent consented.

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1 b. CDC Officers conducted a search of Respondent's residence and found a black
2 Winchester shotgun Model 1300 (serial #L3362261) in the front living room closet area, and a
3 black Glock 27 firearm .40 caliber (serial #DBW472US) in a bedroom. The CDC Officers also
4 found several rounds of ammunition for the firearms listed above. The CDC Officers found in a
5 closet a 2" diameter, 4" long, galvanized pipe with two galvanized caps consistent with a "pipe
6 destructive device." A search of Respondent's vehicle's trunk area recovered a 4½ six inch long
7 galvanized pipe with one galvanized cap. The CDC dispatched the Monterey County Bomb to
8 the scene where they determined that the galvanized pipe device located in the trunk was missing
9 an end cap and was not a destructive device. The Bomb Squad destroyed the galvanized pipe
10 located in the closet. During its destruction, the Bomb Squad located \$100.00 inside the pipe and
11 found there was no destructive device inside.

12 c. Respondent was subsequently arrested and transported to the Soledad Police
13 Department. While at the police department, and in the presence of Monterey County District
14 Investigator Tony Rodriguez, Respondent waived his Miranda rights. Respondent stated that he
15 had been employed as a registered nurse at Salinas Valley State Prison for three years, was
16 assigned to the prison's "Echo yard," and lived at his residence at 20 John V. Mills Avenue, a
17 trailer residence leased and owner by the State of California on the prison grounds, for
18 approximately three years. Respondent also stated that he had gone to the pedestrian port at
19 Salinas Valley Prison to leave food for a Correctional Facility employee who he knew only as
20 "Valerie." Respondent stated that he had contacted CDC Officer Barrozo because he was
21 seeking information regarding a dispute Respondent was currently having with inmate Clark.
22 Respondent stated that he was inmate Clark's nurse and that inmate Clark is constantly harassing
23 him. Respondent also stated that inmate Clark is a heroin addict, receives prescription heroin,
24 and does not like the dose amount of heroin that Respondent provides for him.

25 d. Thereafter, Respondent was arrested for possessing a firearm and ammunition
26 inside State property. Respondent's bail was increased to \$100,000.00 because prison officials
27 were concerned that Respondent was attempting to enter the facility to harm an inmate.

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